CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LAHONTAN REGION

CLEANUP AND ABATEMENT ORDER NO. 6-98-78
WDID NO. 6A099810N02

Requiring Mary Ann Ferguson, Sam Kang, Azad Amiri and Amiri Oil Company to Clean Up and Abate the Effects of the Discharge of Petroleum Products to the Ground Waters of the Lake Tahoe Hydrologic Unit at the Swiss Mart Gas Station, 913 Emerald Bay Road, South Lake Tahoe, El Dorado County

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The California Regional Water Quality Control Board, Lahontan Region (Regional Board), finds:

1. The Swiss Mart Gas Station is located at 913 Emerald Bay Road, South Lake Tahoe, El Dorado County Assessor's Parcel Number 023-181-191. The property contains a gas station and food mart owned by Mary Ann Ferguson and operated jointly by Sam Kang and Azad Amiri of Amiri Oil Company. Ms. Ferguson, Mr. Kang, Mr. Amiri, and Amiri Oil Company are hereinafter referred to as the "Dischargers."
2. On September 30, 1998, this office received information from the Lukins Brothers Water Company that methyl tertiary-butyl ether (MTBE) (a gasoline additive) and other contaminants had been detected in the Lukins Well No. 3 municipal supply well in South Lake Tahoe. The well is located at 915 James Avenue, just northeast of the Swiss Mart gas station. The Swiss Mart gas station at 913 Emerald Bay Road in South Lake Tahoe is upgradient of the Lukins Well No. 3 and is the closest facility with underground petroleum storage tanks. MTBE was detected in the Lukins Well No. 3 at a concentration of 140 micrograms per liter (µg/L or ppb).
3. On October 14, 1998, the underground storage tanks were removed from the site as part of a system upgrade. Excavated soil was sampled and contained gasoline-range petroleum hydrocarbons (TPH-g) at concentrations up to 12 milligrams per kilogram (mg/kg or ppm), diesel-range petroleum hydrocarbons (TPH-d) up to 330 ppm, toluene up to 100 micrograms per kilogram (µg/kg or ppb), ethylbenzene up to 60 ppb, xylenes up to 1,000 ppb and MTBE up to 500 ppb.
4. On October 30, 1998 soil was sampled at the gasoline dispensers at the site. Concentrations detected in dispenser soil samples included benzene at concentrations up to 3,280 ppb, toluene up to 285,920 ppb, ethylbenzene up to 182,080 ppb, xylenes up to 500,680 ppb, and MTBE up to 58,720 ppb.
5. On November 9, 1998, Regional Board staff approved a workplan for groundwater investigation at the site.
6. Excavated contaminated soil is currently stockpiled onsite. The Dischargers were granted a variance to the Lake Tahoe Basin soil disturbance prohibition on October 27, 1998 with the stipulation that no contaminated soil be stockpiled onsite after November 6, 1998 and that all soil disturbance must stop and the site must be winterized by the end of November 6, 1998.

7. The beneficial uses of ground water in the area as designated in the 1995 Water Quality Control Plan for the Lahontan Region include municipal and domestic supply, agricultural supply, fresh water replenishment, and industrial service supply.

8. The 1995 Water Quality Control Plan for the Lahontan Region establishes water quality objectives for the protection of beneficial uses. Those objectives include the following Maximum Contaminant Levels (MCLs) and Action Levels (ALs) that have been established by the California Department of Health Services as safe levels to protect public drinking water supply:

Benzene	1 µg/L (MCL)
Toluene	150 µg/L (MCL)
Ethylbenzene	700 µg/L (MCL)
Xylenes	1750 µg/L (MCL)
MTBE	35 µg/L (AL)

The Water Quality Control Plan contains the following narrative taste and odor objectives for the Lake Tahoe Hydrologic Unit:

> Ground waters shall not contain taste or odor-producing substances in concentrations that cause nuisance or that adversely affect beneficial uses. For ground waters designated as municipal and domestic supply, at a minimum, concentrations shall not exceed adopted secondary maximum contaminant levels specified in . . . Title 22 of the California Code of Regulations which is incorporated by reference into this plan.

The following Taste and Odor Thresholds (TOT) are adopted or proposed as secondary water quality goals by the United States Environmental Protection Agency or the California Department of Health Services for drinking water. Petroleum concentrations above these levels would violate the narrative taste and odor objective in the Water Quality Control Plan:

Total Petroleum Hydrocarbons (Gasoline)	50 µg/L (TOT)
Toluene	42 µg/L (TOT)
Ethylbenzene	29 µg/L (TOT)
Xylenes	17 µg/L (TOT)
MTBE	5 µg/L (TOT-proposed)

The more stringent numeric standard is the applicable water quality objective for each constituent.

9. The ground water concentration of MTBE (Finding No. 2) detected in Lukins Well No. 3 exceeds water quality objectives set out above. The concentrations adversely affect the ground water for its designated uses. The levels of waste in ground water, therefore, constitute a pollution, as defined in Section 13050 of the California Water Code.

10. The discharge of petroleum products to the ground waters of the Lake Tahoe Hydrologic Unit as described in Finding No. 2, above, violates a prohibition for the Lake Tahoe Hydrologic Unit contained in the 1995 Water Quality Control Plan for the Lahontan Region.

Specifically, the discharge violates and threatens to violate the following discharge prohibition in the Plan:

"The discharge of . . . waste as defined in Section 13050(d) of the California Water Code which would violate the water quality objectives of this plan, or otherwise adversely affect the beneficial uses of water designated by this plan, is prohibited."

11. This enforcement action is being taken by this regulatory agency to enforce the provisions of the California Water Code and as such is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) in accordance with Section 15321, Chapter 3, Title 14, of the California Code of Regulation.

THEREFORE, IT IS HEREBY ORDERED that pursuant to California Water Code Sections 13267 and 13304, Mary Ann Ferguson, Sam Kang, Azad Amiri, and Amiri Oil Company shall clean up and abate the discharge and threatened discharge of petroleum hydrocarbons and other wastes to waters of the State, and shall comply with the provisions of this order:

1. Mary Ann Ferguson, Sam Kang, Azad Amiri, and Amiri Oil Company shall conduct the investigation and cleanup tasks by or under the direction of a California registered geologist or civil engineer experienced in the area of groundwater pollution cleanup.

2. Mary Ann Ferguson, Sam Kang, and Azad Amiri and Amiri Oil Company shall not cause or permit any additional waste to be discharged or deposited where it is, or probably will be, discharged into waters of the State.

Soil Removal

3. By **November 13, 1998**, complete the removal of contaminated stockpiled soil from the site. Submit copies of soil disposal manifests to this office within 14 days of soil removal. This Order constitutes a variance to the October 15 - May 1 grading prohibition for the soil removal only.

Groundwater Investigation

4. By **November 23, 1998**, implement the groundwater investigation workplan for the site that was approved by Board staff on November 9, 1998. By **December 1, 1998**, submit to this office laboratory analytical results of water samples. Investigation requirements include the following:

Analyses: Analyses submitted pursuant to the investigation must include TPH-g, TPH-d, BTEX, and gasoline oxygenates including MTBE, TBA, DIPE, ETBE, and TAME. Analyses for oxygenates must use EPA Method 8260 or its equivalent. Detection limits for BTEX and oxygenates must not be greater than 0.5 ppb in aqueous samples and 5 ppb in soil samples. The detection limit for TBA must not be greater than 5 ppb in aqueous samples and 250 ppb in soil samples. The detection limit for TPH-g and TPH-d must not be greater than 50 ppb in aqueous samples and 500 ppb in soil samples.

Quality assurance/quality control: QA/QC samples must include 1) one trip blank per cooler and 2) one equipment blank per piece of sampling equipment (sample bailer, sample pump, etc.); if disposable bailers are used for sampling, one equipment blank must be submitted from one representative bailer per sampling round. Laboratory QA/QC samples must be analyzed for TPH-g, BTEX, and MTBE. Confirm positive identifications with GC/MS methods.

5. By **December 21, 1998**, submit a technical report to this office describing the results of the groundwater investigation. The report must include analytical chemistry data, groundwater elevation data, monitoring well construction details (if applicable), and figures depicting isoconcentrations of TPG-g, benzene, and MTBE, and the extent of free-phase petroleum product (if present).

Results of the investigation must include text interpretation of collected data and recommendations for further action that is necessary to 1) define the extent of contamination (including installation of monitoring wells) and 2) to contain and remediate the entire extent of contaminated ground water at and around the site. This report must also include a summary of work performed and data collected during the current interim remedial action activities (soil and groundwater excavation, or extraction, and testing).

Soil Investigation

6. By **November 23, 1998**, submit to this office a workplan for defining the lateral and vertical extent of soil contamination at the site.

7. **Within 30 days of approval** by Board staff, implement the soil investigation workplan.

8. **Within 75 days of workplan approval** by Board staff, submit a technical report to this office describing the results of the soil investigation. The report must include a Corrective Action Plan for remediation of contaminated soil.

Any Discharger named in this order may take actions to comply with this order. Actions to comply taken by any one or more Dischargers will be deemed as compliance for all Dischargers. Failure to comply with the terms or conditions of this Cleanup and Abatement Order may result in additional enforcement actions against all named Dischargers. Enforcement action may include imposition of administrative civil liability pursuant to Sections 13268 and 13350 of the California Water Code or referral to the Attorney General of the State of California for such legal action as he or she may deem appropriate.

Ordered by:_____ Dated:_____
HAROLD J. SINGER
EXECUTIVE OFFICER